

JIM GIBBONS
Governor

STATE OF NEVADA

ANDREW J. MACKAY
Chairman

DIANNE CORNWALL
Director, Business and Industry



MICHAEL J. KLOBERDANZ
Commissioner

MONICA B METZ
Commissioner

DEPARTMENT OF BUSINESS AND INDUSTRY NEVADA TRANSPORTATION AUTHORITY

A duly authorized meeting of the Nevada Transportation Authority was held on **Thursday, May 13, 2010 at 10:00am** at the Authority's offices located at 2290 South Jones Blvd., Suite #110, Las Vegas, Nevada and 1755 East Plumb Ln., Suite #216, Reno, Nevada.

MINUTES OF THE MEETING

1. Call to Order
2. Roll Call; Attending in Las Vegas were Chairman Andrew MacKay, Commissioner Michael Klobberdanz, Commissioner Monica Metz, Administrative Attorney Jim Day, Applications Manager Liz Babcock, Financial Analyst Yvonne Shelton, Financial Analyst Lidia Aronova, Chief Inspector Michael Bradford, and Senior Deputy Attorney General David Newton. Deputy Commissioner Marilyn Skibinski attended in Reno.
3. Pledge of Allegiance
4. ****Approval of Agenda; Chairman MacKay stated that he would be taking Agenda Items out of order in the interest of fairness and efficiency. Commissioner Metz requested that Item 17.)b)34 be set aside for discussion. Administrative Attorney Day requested that Item 17.)b)38 be removed as compliance has not yet been completed. Applications Manager Babcock requested Item 13.)e) be removed as the Application was withdrawn. The Authority voted 3-0 to approve the Agenda as modified.**
5. ****Approval of the Minutes of the April 8, 2010 Agenda Meeting; The Authority voted 3-0 to approve the Minutes of the April 8, 2010 Agenda Meeting.**
6. Ground transportation trends and activity; No one present for comment.
7. Briefings from the Commissioners; Chairman MacKay extended thanks to Authority Staff as well as to Senior Deputy Attorney General Newton and Deputy Attorney Generals Eccles and Bradley; Commissioner Metz reminded everyone about the Regulatory Workshop on the following day and extended congratulations to Ewing Brothers Towing for their article in American Towman Magazine; Commissioner Klobberdanz extended thanks to Commissioner Metz for her efforts regarding the proposed regulations.
8. Briefing from the Deputy Commissioner; Deputy Commissioner Skibinski had no briefing.

9. **Report of Legal Counsel; Senior Deputy Attorney General Newton stated that the Supreme Court denied the Belssner Appeal and that judicial review in the matter regarding Five Star Limousine is moving forward.**

10. ****Applications for Fully Regulated Carriers**

Docket No. 09-01007 The Application of Omni Limousine, Inc. for an expansion of the operating authority granted under Certificate of Public Convenience and Necessity (CPCN) 1084, Sub 1. (MJK); **James S. Kent, Esq. was present on behalf of the Applicant. Neal Tomlinson, Esq. was present on behalf of the Intervener. Commissioner Kloberdanz summarized the Application and hearing history and noted an *ex parte* communication that he received via email but did not read and did not impact his decision. Commissioner Kloberdanz stated that he believed the Application shows support for an expansion of 12 vehicles but at the current request of 19 he would recommend denial. Mr. Kent requested to orally amend the Application to seek only 12 vehicles. Mr. Tomlinson objected to the oral amendment as reopening the Application hearing. Mr. Tomlinson and Mr. Kent debated the merit of the proposed amendment as it related to the regulations regarding the Application process. Chairman MacKay stated that the Applicant failed to meet its burden of proof. Commissioner Metz stated that she supports the proposed amendment to 12 vehicles and noted that the Applicant was not in violation of the equity requirement as they are permitted 15 months to be in compliance. Administrative Attorney Day enumerated the compliance items and contingencies set forth in the proposed Order. Commissioner Metz noted her concerns regarding the addition of vehicles to the market and the potential impact on the industry, but also noted that evidence of such detrimental impact had not been presented at hearing. The Authority voted 2-1 to approve the Application with a fleet restriction of 24 (12 additional vehicles), with Chairman MacKay providing the dissenting vote.**

11. ****Orders to Show Cause; Administrative Attorney Day summarized the procedural history of items 11.a) and 11.b). The Authority voted 3-0 to revoke the Certificates.**

- a) **Docket No. 10-03033** The Order to Show Cause issued to Protrav Services, Inc. as to why Certificate of Public Convenience and Necessity (CPCN) 2017.1 should not be revoked. (MJK)
- b) **Docket No. 10-03035** The Order to Show Cause issued to VecTour of Nevada, Inc. as to why Certificate of Public Convenience and Necessity (CPCN) 2021 should not be revoked. (MJK)

12. ****Appeal from Taxicab Authority Decision**

Docket No. 09-05031 The Appeal by Handicab, LLC from the Orders of the Taxicab Authority dated May 12, 2009 (In the Matter of the Application of Handicab, LLC); **Rob Martin, Esq. was present on behalf of the Appellant. Deputy Attorney General Scott Davis was present on behalf of the Taxicab Authority. Neal Tomlinson, Esq. was present on behalf of the Protestors. Chairman MacKay summarized the two main issues regarding the appeal and stated that he did not see a need for formal oral argument as briefs had been filed. Mr. Martin stated that he would like an opportunity to make a clear oral argument. Mr. Martin, Mr. Tomlinson and Deputy Attorney General Davis were allowed brief public comment and summarized the respective parties' arguments. Chairman MacKay opened the floor for further Public Comment. Cathy Olendorf of Yellow Checker Star stated that only 10% of Handicab's trips will be for handicapped transport. Brent Bell stated that he resents Mr.**

Martin saying that operators are doing a poor job taking care of the handicapped. Ruthie Jones of ITPE, stated that existing carriers supply the service that is being sought. Mr. Martin rebutted the public comments. Chairman MacKay restated the issues before the Authority. Commissioner Kloberdanz echoed Chairman MacKay's summary of the issues. Commissioner Metz stated that the Taxicab Authority was not clearly erroneous in their decision. The Authority voted 3-0 to affirm the decision of the Taxicab Authority.

13. **Financial Rates and Tariffs

- a) **Docket No. 09-10031** The Application of Desert Portable Storage, LLC d/b/a PODS for approval of a tariff rate modification for services conducted under Certificate of Public Convenience and Necessity (CPCN) 3260. Staff investigation concluded; Financial Analyst Shelton summarized the Application. Commissioner Metz questioned the practice of showing losses and lowering prices. Ms Shelton stated that she would have liked to see more financial documents and the Applicant would not show them. Applications Manager Babcock stated that the Applicant bowed out of being present at the last minute. Chairman MacKay stated that it seemed Staff does not support the Application. The Authority voted 3-0 to approve the application in part, excluding the rates not supported by Staff (specifically the rates for warehouse redelivery and onsite additional moves).
- b) **Docket No. 10-01002** The Application of Tow Guys, Inc. d/b/a LVVI for approval of a tariff rate modification for tow car services conducted under Certificate of Public Convenience and Necessity (CPCN) 7108, Sub 2. Staff investigation concluded; Dennis Milk was present on behalf of the Applicant. Financial Analyst Shelton summarized the Application and recommended approval with some minor changes. Applications Manager Babcock recommended some changes as well. Chairman MacKay asked if the proposed tariff was on the high-end but within normal existing amounts. Ms. Shelton confirmed that similar rates exist in approved tariffs. Chairman MacKay asked a question regarding lien processing and Mr. Milk responded. The Authority voted 3-0 to approve the Application with the Staff recommended modifications.
- c) **Docket No. 10-02024** The Application of B & E, Inc. d/b/a SNAP Towing for approval of a tariff rate modification for tow car services conducted under Certificate of Public Convenience and Necessity (CPCN) 7042, Sub 2. Staff investigation concluded; Clark Whitney was present on behalf of the Applicant. Financial Analyst Shelton summarized the Application and recommended approval. Mr. Whitney stated that it is great to work with the Staff. The Authority voted 3-0 to approve the Application.
- d) **Docket No. 10-04004** The Application of Seiji, LLC d/b/a Seiji Limousine for approval of a tariff rate modification for charter limousine services conducted under Certificate of Public Convenience and Necessity (CPCN) 1111, Sub 1. Staff investigation concluded; Krystal Swanson and Kellie McKinley were present on behalf of the Applicant. Financial Analyst Shelton summarized the Application and recommended approval. The Authority voted 3-0 to approve the Application.
- e) **Docket No. 10-04014** The Application of Bell Trans for approval of a tariff rate modification for airport transfer services conducted under Certificate of Public Convenience and Necessity (CPCN) 1023, Sub 1. Staff investigation concluded; Removed from Agenda

14. **Petitions for Reconsideration:

Citation 14237 issued to Yellow Cab Co. for a violation of NAC 706.3761. Respondent's Petition for Reconsideration of the Authority's April 12, 2010 Order. The Respondent requests that the Authority vacate its prior Final Order and dismiss the Citation. (AJM); Manager Jay Volkerding was present on behalf of the Petitioner. Chairman MacKay summarized the Citation history. Mr. Volkerding stated that he did not appreciate the language contained in the Authority's final Order in an earlier matter and alleged that this Citation was written at the direction of the Chairman, thereby tainting the hearing process. Chairman MacKay stated that he did not order the issuance of the Citation and that he would have recused himself if he had any prior knowledge regarding the case. Chairman MacKay further stated that the regulation at issue in the Citation is not ambiguous and that the regulation imposes a burden on the carrier. Commissioner Metz stated that the Petition for Reconsideration did not identify any new evidence and added that the language of the final Order in the previous matter reflected the views of the Full Authority. Commissioner Kloberdanz echoed Commissioner Metz's statement that no compelling new evidence or argument was identified or contained within the Petition. The Authority voted 3-0 to grant the Petition in part by vacating the prior final Order and issuing a new final Order leaving intact the prior findings and recommendations to avoid any timeliness issues with regards to the Respondent's opportunity to file a Petition for Judicial Review, if he so chooses.

15. Notices (No action required)

Docket No. 10-05004 The temporary discontinuance from May 16, 2010 through November 16, 2010 of services provided by ATV Action Tours, Inc. under Certificate of Public Convenience and Necessity (CPCN) 1039, Sub 1. Staff investigation concluded.

16. Discussion Item:

At the request of Authority Staff, the Authority will discuss its authority to regulate auction preparation fees for towed vehicles; Senior Deputy Attorney General Newton summarized the reason for the discussion item request. Dennis Milk of Tow Guys, Clark Whitney of Snap Towing, and David Walker of Walker Towing provided background on the use of the fees from within their industry and stated that they are in favor of the fee being regulated. Senior Deputy Attorney General Newton stated that it is not a question of desiring to regulate the fee, it is a question of the Authority having the jurisdiction to regulate. Commissioner Metz cited NRS 706.132, which seemed to support a conclusion that the Authority had jurisdiction over the fees at issue. The Authority agreed and concluded that auction preparation fees are under the jurisdiction of the Authority. Applications Manager Babcock asked a question regarding which vehicles are charged the fee. Chairman MacKay thanked everyone for their input.

17. **Consent Items:

- a) Applications for Certificates of Public Convenience and Necessity to Provide Charter Bus Service
 - 1) **Docket No. 10-02008** The Application of Luxe Transportation Services, LLC for a certificate of public convenience and necessity to provide charter bus service within the State of Nevada. Staff investigation concluded; Applications Manager Babcock summarized the

Application. Chairman MacKay stated that the Applicant has a positive reputation. The Authority voted 3-0 to approve the Application.

- 2) **Docket No. 10-03012** The Application of Buffalo Tuff, Inc. d/b/a Nevada Party Bus for a certificate of public convenience and necessity to provide charter bus service within the State of Nevada. Staff investigation concluded; **Applications Manager Babcock summarized the Application. The Authority voted 3-0 to approve the Application.**
- b) Administrative Citations and Impoundments; **Chairman MacKay explained that the following items were administrative citation and impound matters in which either Staff submitted a Settlement Agreement for approval or a hearing officer presided over the hearing with respect to the alleged violation(s), made findings, and provided recommendations with respect to appropriate fines and/or other remedies. Chairman MacKay explained that the items are voted on in a block. Items 17.b)34) and 17.b)38) were pulled at the request of Staff. The Authority voted 3-0 to approve items 17.b)1)-17.b)40), excluding Items 17.b)34) and 17.b)38).**
 - 1) **Citation 14261** issued to Shavon Shepard-Walker for violations of NRS 706.386 and NRS 706.758. (AJM)
 - 2) **Impound 1612 and Citation 15130** The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15130 issued to Thomas Lodato for violations of NRS 706.386 and NRS 706.758. (AJM)
 - 3) **Citations 15037 and 15038** issued to Walter Amaya for violations of NAC 706.228, NAC 706.329, and NAC 706.354. (MJK)
 - 4) **Citation 15097** issued to John Henry Ryan for a violation of NAC 706.228(3) as amended by LCB File No. R127-07. (MJK)
 - 5) **Citation 15100** issued to James Daniel Scott for violations of NRS 706.386 and NRS 706.758. (MJK)
 - 6) **Citation 15105** issued to Howard M. Koontz for violations of NRS 706.386 and NRS 706.758. (MJK)
 - 7) **Impound 1617** The impoundment pursuant to NRS 706.476 as amended by A.B. 169, 75th Nev. Legis. (2009) of a vehicle registered to Richard Espinoza. (MJK)
 - 8) **Impound 1620** The impoundment pursuant to NRS 706.476 of a vehicle registered to Andrew A. Scott. (MJK)
 - 9) **Impound 1704** The impoundment pursuant to NRS 706.476 of a vehicle registered to George Douglas Rapson. (MJK)
 - 10) **Impound 1624 and Citation 15155** The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15155 issued to Daniel Thorndal for violations of NRS 706.386 and NRS 706.758. (MJK)

- 11) **Impound 1634 and Citation 15126** The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15126 issued to Gabriel Padilla for violations of NRS 706.386 and NRS 706.758. (MJK)
- 12) **Impound 1650 and Citation 15127** The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15127 issued to Gabino Munoz for violations of NRS 706.386 and NRS 706.758. (MJK)
- 13) **Citation 15063** issued to Robert William Booterbaugh for a violation of NAC 706.228(5) as amended by LCB File No. R127-07. (MBM)
- 14) **Citation 15075** issued to Ramani Adrian Durri for violations of NRS 706.386 and NRS 706.758. (MBM)
- 15) **Citations 15088 and 15089** issued to Song Xiong for violations of NAC 706 as amended by LCB file No R127-07(1), NAC 706.329, and NAC 706.354. (MBM)
- 16) **Citation 15104** issued to Amigo's Auto Towing for violations of NAC 706.432 (2 counts). (MBM)
- 17) **Citation 15128** issued to Kyle Hidano for violations of NRS 706.386 and NRS 706.758. (MBM)
- 18) **Citation 15151** issued to Thomas James Osowicki for violations of NRS 706.386 and NRS 706.758. (MBM)
- 19) **Citation 15153** issued to Pedro L. Sanchez dba Go Vegas Shuttles for violations of NRS 706.386 and NRS 706.758. (MBM)
- 20) **Citation 15178** issued to Eugenio Bernal-Blancas, for violations of NRS 706.386 and NRS 706.758. (MBM)
- 21) **Citation 15179** issued to Rockford Devilliers dba Red Rock Movers, for violations of NRS 706.386 and NRS 706.758. (MBM)
- 22) **Citation 15180** issued to Henrri Alexis Lopez, for violations of NRS 706.386 and NRS 706.758. (MBM)
- 23) **Impound 1625** The impoundment pursuant to NRS 706.476 of a vehicle registered to Ryder Truck Rental LT. (MBM)
- 24) **Impound 1627** The impoundment pursuant to NRS 706.476 of a vehicle registered to Budget Rent-A-Car & Sales/ Malco Enterprises of Nevada Inc. (MBM)
- 25) **Impound 1628** The impoundment pursuant to NRS 706.476 of a vehicle registered to Victor Trujillo. (MBM)
- 26) **Impound 1635** The impoundment pursuant to NRS 706.476 as amended by A.B. 169, 75th Nev. Legis. (2009) of a vehicle registered to Kenneth Bautista. (MBM)

- 27) **Impound 1638** The impoundment pursuant to NRS 706.476 of a vehicle registered to Leonor Perez-Ferrer. (MBM)
- 28) **Impound 1642** The impoundment pursuant to NRS 706.476 of a vehicle registered to Elias Hassen. (MBM)
- 29) **Impounds 1619 and 1703 and Citation 15049** The impoundment pursuant to NRS 706.476 as amended by A.B. 169, 75th Nev. Legis. (2009) of two vehicles registered to and Citation 15049 issued to Joseph Newberry for violations of NRS 706.386 and NRS 706.758. (MBM)
- 30) **Impound 1636 and Citation 15129** The impoundment pursuant to NRS 706.476 as amended by A.B. 169, 75th Nev. Legis. (2009) of a vehicle registered to and Citation 15129 issued to Kenneth Yarnall for violations of NRS 706.386 and NRS 706.758. (MBM)
- 31) **Impound 1637 and Citation 15152** The impoundment pursuant to NRS 706.476 as amended by A.B. 169, 75th Nev. Legis. (2009) of a vehicle registered to and Citation 15152 issued to James T. Hayes for violations of NRS 706.386 and NRS 706.758. (MBM)
- 32) **Impound 1641 and Citation 15154** The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15154 issued to Joseph Anthony Silva for violations of NRS 706.386 and NRS 706.758. (MBM)
- 33) **Citation 14245** issued to Paul William Seaman for a violation of NAC 706.3761.
- 34) **Citation 14335** issued to Warren Ardoin dba Warren's Homework for violations of NAC 706.247/49 CFR 382.301 and NAC 706.247/49 CFR 382.305; **Commissioner Metz recommended the settlement agreement not be approved by the Full Authority and be set for hearing for the same reasons as the Best Towing matter of the previous Agenda Meeting. The Authority voted 3-0 to refer the item back to hearing.**
- 35) **Citation 15036** issued to Emanuel Lewis for a violation of NAC 706 as amended by LCB File No. R127-07.
- 36) **Citation 15042** issued to Sunrise Towing for a violation of NAC 706.420.
- 37) **Citation 15062** issued to Dustin L. Gotchy for violations of NAC 706.228(3) as amended by LCB File No. R127-07 and NAC 706 as amended by LCB File No. R127-07.
- 38) ~~**Citation 15092** issued to Albert Williams for a violation of NRS 706.758;~~ **Pulled from Agenda**
- 39) **Citation 15098** issued to Edward Gordon Ponzio for a violation of NAC 706.228(3) as amended by LCB File No. R127-07.
- 40) **Citation 15099** issued to Robert L. Herring for a violation of NAC 706.228(3) as amended by LCB File No. R127-07.

18. Public Comment; Alan Waxler of AWG applauded Chairman MacKay for his vote regarding the Omni Limousine and stated that he was sorry he could not attend that hearing. He also

summarized his relationship with the Wynn and said it was not accurately described in the hearing and that his business model is to provide more than just transportation—to mirror what the hotels provide.

Commissioner Metz stated that the hearing did not call into question the level of service that is provided and also stated that Mr. Waxler’s testimony may have been beneficial at the time of the hearing.

Clark Whitney of Snap Towing requested clarification on the applicability of NRS 706.258 regarding Constable’s fees and the opinion that they cannot be charged.

Administrative Attorney Day stated that if an advisory opinion is being sought it can be requested for the next meeting of the Full Authority.

19. Adjournment 1:56pm

** Denotes the Authority is expected to consider and may take action on this matter.

The Authority may consider agenda items taken out of order and, according to Nevada’s Open Meeting Law, it is the Authority’s discretion to take public comment during times other than during Public Comment. No deliberation may take place on a matter not listed on the posted agenda and until the matter has been specifically included on an Agenda as an item.

Note: The Nevada Transportation Authority (NTA) is pleased to make reasonable accommodations and will assist and accommodate people with a disability who wish to attend its meetings and hearings. If special arrangements are necessary, please contact the NTA in Las Vegas at (702) 486-3303 or in Reno at (775) 688-2800 as far in advance of the meeting or hearing as possible.